TWO RECENT REFORMS IN FEDERAL PROCEDURE.

WRITS OF ERROR, ETC., TO STATE COURTS.—A recent act of congress gives the Supreme Court power to grant a writ of certiorari to review a judgment rendered by the highest court of a state that a statute of the state is repugnant to the Constitution, treaties, or laws of the United States.

U. S. Comp. St., § 1214, Judicial Code, § 237, as amended, December 23, 1914, provides that: "It shall be competent for the Supreme Court to require, by certiorari or otherwise, any such case to be certified to the Supreme Court for its review and determination, with the same power and authority in the case as if it had been carried by appeal or writ o error to the Supreme Court, although the decision in such case may have been in favor of the validity of the treaty or statute or authority exercised under the United States or may have been against the validity of the State statute or authority claimed to be repugnant to the Constitution, treaties, or laws of the United States, or in favor of the title, right, privilege, or immunity claimed under the Constitution, treaty, statute, commission, or authority of the United States."

Until the passage of this act such a decision could only be reviewed in the Supreme Court when it was in favor of the validity of the state statute or authority. As said by Everett P. Wheeler, chairman of special committee of the American Bar Association, to suggest remedies, etc., in the Central Law Journal: "Had this new law been in force at the time of the decision of the New York Court of Appeals in the Ives case, (201 N. Y. 271), that the Wainwright Compensation Act was in violation of the Constitution, that case could have been carried directly to Washington and we should have been spared the somewhat absurd condition growing out of the conflict in the decision between the Court of Appeals of New York and the Supreme Court of New Jersey and Massachusetts."

AMENDMENTS OF PLEADINGS IN ACTIONS AT LAW WHICH SHOULD HAVE BEEN BROUGHT IN EQUITY.—Another act of Congress directs the Federal Courts in case they find that a suit at law should have been brought in equity, or a suit in equity should

have been brought at law, to order any amendments to the pleadings which may be necessary to conform them to the proper practice. The right to amend at any stage of the case so as to obviate the objection that the suit was not brought on the right side of the court is absolute. All testimony taken before such amendment, if preserved, stands as testimony in the cause. It is also provided that in actions at law in the Federal courts equitable defenses may be interposed without the necessity of filing a bill on the equity side of the court. Equitable relief respecting the subject-matter of the suit may thus be obtained by answer or plea. The court is to regulate the review of the judgment and the "appellate court shall have full power to render such judgment upon the record as law and justice shall require." The Act also provides that defective allegations of jurisdiction may be supplied and amended at any stage of the cause. So that hereafter there will be no reversals on the ground of defective allegations of jurisdiction. See Central Law Journal, supra.

U. S. Comp. Sts., § 1251a, Judicial Code, § 274a, Act of March 3, 1915, provides that: "In case any of said courts shall find that a suit at law should have been brought in equity or a suit in equity should have been brought at law, the court shall order any amendments to the pleadings which may be necessary to conform them to the proper practice. Any party to the suit shall have the right, at any stage of the cause, to amend his pleadings so as to obviate the objection that his suit was not brought on the right side of the court. The cause shall proceed and be determined upon such amended pleadings. All testimony taken before such amendment, if preserved, shall stand as testimony in the cause with like effect as if the pleadings had been originally in the amended form."

§ 1251b, Jud. Code, § 274b, Act March 3, 1915, provides that: "In all actions at law equitable defenses may be interposed by answer, plea, or replication without the necessity of filing a bill on the equity side of the court. The defendant shall have the same rights in such case as if he had filed a bill embodying the defense of seeking the relief prayed for in such answer or plea. Equitable relief respecting the subject matter of the suit may thus be obtained by answer or plea. In case affirmative re-

lief is prayed in such answer or plea, the plaintiff shall file a replication. Review of the judgment or decree entered in such case shall be regulated by rule of court. Whether such review be sought by writ of error or by appeal the appellate court shall have full power to render such judgment upon the records as law and justice shall require."

§ 1251c, Jud. Code, § 274c, Act March 3, 1915, provides that: "Where, in any suit brought in or removed from any State court to any district of the United States, the jurisdiction of the district court is based upon the diverse citizenship of the parties, and such diverse citizenship in fact existed at the time the suit was brought or removed, though defectively alleged, either party may amend at any stage of the proceedings and in the appellate court upon such terms as the court may impose, so as to show on the record such diverse citizenship and jurisdiction, and thereupon such suit shall be proceeded with the same as though the divers citizenship had been fully and correctly pleaded at the inception of the suit, or, if it be a removed case, in the petition for removal."

T. B. B.